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| EXAMINER |
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CRAIG, PAULA L

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3761

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06/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/790,418 | <b>Applicant(s)</b><br>VEGLIO ET AL. |  |
|                              | <b>Examiner</b><br>PAULA L. CRAIG    | <b>Art Unit</b><br>3761              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed March 10, 2008 have been fully considered but they are not persuasive. Applicant argues that the baffle 11 of Wang is fluid impermeable, as the central and non-central zones of the baffle of Wang are impermeable to menses, and that therefore Wang does not teach a fluid pervious backsheet.
2. Applicant's Claim 1 requires a fluid permeable topsheet, a fluid permeable backsheet, and a fluid impermeable barrier between the backsheet and the absorbent core. Applicant's specification describes prior art pantliners as having a backsheet which is typically a fluid impermeable polymer film (page 1, lines 28-32). Applicant's specification describes such fluid impermeable layers as trapping moisture in the absorbent core (page 1, lines 28-32). No other definition is provided in the specification of the phrase "fluid impermeable".
3. Applicant's specification describes prior art breathable backing layers, such as a nonwoven web backing layer, which are fluid impermeable but vapor permeable (page 2, lines 1-14). Applicant's specification describes backsheet 22 as being formed from any vapor permeable material known in the art, such as a microporous formed film, an apertured formed film, with a nonwoven web described as preferred, and with a spunbonded nonwoven web of polypropylene fibers described as most preferred (page 4, lines 18-30). Applicant's specification indicates that the backsheet 22 may be a hydrophobic, fluid permeable nonwoven web which is fluid repellent and functions as a

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liquid barrier although it is liquid permeable (page 5, lines 6-10, page 7, lines 8-25).

Applicant's Claim 2 requires that the backsheet is fluid repellent, so that fluid repellent backsheets must be included within the scope of the term "fluid permeable". No other definition is provided in the specification of the phrase "fluid permeable". The claims do not require a "fluid pervious" backsheet.

4. The additional layer of the central zone of the baffle 11 of Wang corresponds to the fluid impermeable barrier of Applicant's Claim 1 (col. 7, lines 8-48, col. 8, lines 4-63, col. 9, line 67 to col. 10, line 41). Wang teaches the non-central zone of baffle 11 as being impermeable to menses under certain conditions, such as under a dead weight pressure of about 0.1-1 psi when tested as a backing to a standard fluff pad which has been challenged with 15 mL of synthetic menses (Abstract, col. 14, lines 17-60, Claim 1). This is not a statement that the non-central zone of baffle 11 is completely impermeable to menses, much less that the non-central zone of baffle 11 is fluid impermeable. Wang describes the baffle 11 as a clothlike porous substrate, in which the central zone has a film or similar material added to increase impermeability to menses in the central zone, leaving the non-central zone unmodified (col. 7, lines 8-48, col. 8, lines 40-63, col. 9, lines 3-28). Wang describes nonwoven webs, spunbonded webs, microporous films, and knitted fabrics as all suitable for the porous substrate of the baffle 11 (col. 7, lines 43-46, col. 8, lines 51-63, col. 9, lines 3-66). Wang also teaches polypropylene as a preferred material for the clothlike porous substrate (col. 9, lines 8-59). The disclosure of Wang makes clear that the terms "fluid impermeable" and "fluid permeable" are relative terms (Abstract, col. 14, lines 12-60).

5. As described above in paragraph 3, Applicant's specification indicates that any vapor permeable material, including microporous formed films and spunbonded nonwoven webs, is suitable for the backsheet, and that fluid repellent materials are also suitable for the backsheet. As described above in paragraph 4, Wang discloses a clothlike porous substrate for the baffle which may be a microporous formed film or a spunbonded nonwoven web. No appreciable difference between the fluid permeability of the backsheet disclosed and/or claimed by Applicant and the fluid permeability of the porous substrate disclosed by Wang is apparent to the Examiner.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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7. The rejection of Claims 1-4, 6-7, 10, 12-14, and 16-17 under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. 4,713,069) in view of Horney (U.S. 5,549,589 ) is maintained for the reasons of record, as well as the reasons described above in paragraphs 2-5.

8. For Claim 1, Wang teaches a sanitary napkin having a body-facing side and a garment facing side (Abstract, Figs. 1-2, col. 1, lines 30-43, col. 7, lines 65-68, col. 13, line 66 to col. 14, line 11). The sanitary napkin includes a fluid permeable topsheet 13, a fluid permeable backsheet 11, and an absorbent core 12 disposed therebetween (Figs. 1-2, col. 13, line 66 to col. 14, line 11). Wang teaches the absorbent core 12 defining a core outer periphery (Figs. 1-2, col. 13, line 66 to col. 14, line 11). Wang teaches that the standard sanitary napkin includes fluff (col. 14, lines 34-60; note standard fluff for sanitary napkins is made from wood pulp or the like, and is hydrophilic). The backsheet 11 includes relatively hydrophobic nonwoven material (Abstract, Figs. 1-2, col. 9, lines 3-66; note that polyolefins are hydrophobic). Wang teaches the topsheet 13 and the backsheet 11 defining a sanitary napkin outer periphery that is substantially larger than the core outer periphery, the sanitary napkin outer periphery completely surrounds the core outer periphery and is fully capable of being a breathable zone (Abstract, Figs. 1-2, col. 1, lines 30-44, col. 8, lines 4-66, col. 9, lines 3-28, col. 16, lines 28-68). The sanitary napkin includes a fluid impermeable barrier between the backsheet 11 and the absorbent core 12, the fluid impermeable barrier being disposed within the core outer periphery and not extending beyond the core outer periphery (fluid impermeable barrier is the additional layer of the central zone

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14, Abstract, Fig. 1, col. 8, lines 4-64, col. 13, line 66 to col. 14, line 11). Wang does not expressly teach the absorbent core including relatively hydrophilic material, the topsheet including relatively hydrophobic nonwoven material, nor the garment-facing side having pressure sensitive adhesive for affixing to a wearer's undergarment. However, relatively hydrophilic absorbent cores and relatively hydrophobic topsheets are well known in the art. It is also well known in the art for the garment-facing side of a sanitary napkin to include pressure sensitive adhesive for affixing to a wearer's undergarment. Horney confirms this and teaches a sanitary napkin having a relatively hydrophilic absorbent core and a relatively hydrophobic topsheet 22 (absorbent core includes absorbent core 25, distribution member 24, and acquisition layer 27; Figs. 1-2, col. 3, lines 12-20, col. 4, lines 26-55, col. 10, lines 31-52, col. 12, lines 54-64, col. 13, lines 25-67, col. 14, lines 45-67, col. 16, lines 1-61). Horney teaches that a generally hydrophobic topsheet helps to isolate the wearer's skin from liquids in the absorbent core (col. 14, lines 59-67, col. 16, lines 45-56). Horney also teaches the garment-facing side of the napkin having pressure sensitive adhesive for affixing to a wearer's undergarment (col. 15, lines 36-67). Horney teaches that the adhesive maintains the sanitary napkin in its position within the panty during use (col. 15, lines 65-67). It would have been obvious to one of ordinary skill in the art to modify Wang to include the absorbent core having relatively hydrophilic material and the topsheet having relatively hydrophobic nonwoven material, as taught by Horney, to isolate the wearer's skin from liquids in the absorbent core, as taught by Horney. It would also have been obvious to one of ordinary skill in the art to modify Wang to include the garment-facing side having pressure sensitive adhesive for

affixing to a wearer's undergarment, as taught by Horney, to maintain the sanitary napkin in its position within the panty during use, as taught by Horney.

9. For Claim 2, Wang teaches the backsheet 11 having sufficient hydrophobicity to be rendered fluid repellent (Abstract, Figs. 1-2, col. 8, lines 1-66, col. 9, lines 3-66).

10. For Claim 3, Wang teaches the topsheet 13 and the backsheet 11 having a common outer periphery (Fig. 1).

11. For Claim 4, Wang teaches that the fluid impermeable barrier should have dimensions sufficient to provide the desired protection against leakage (fluid impermeable barrier is the additional layer of the central zone 14, Abstract, col. 8, lines 24-31). Wang does not expressly teach the periphery of the fluid impermeable barrier coinciding with the core outer periphery. The dimensions of the fluid impermeable barrier are a result effective variable, since this affects leakage. The discovery of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art. See *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

12. For Claim 6, Wang teaches the core outer periphery defining a generally oval shape (Figs. 1-2).

13. For Claim 7, Wang does not expressly teach the sanitary napkin periphery defining a generally hour-glass shape. However, sanitary napkins having a periphery with a generally hour-glass shape are well known in the art. Horney confirms this and teaches the sanitary napkin having an hour-glass shape (col. 3, lines 12-52). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify

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Wang to include the sanitary napkin periphery defining a generally hour-glass shape, as taught by Horney.

14. For Claim 10, Wang does not teach the topsheet being a spunbonded nonwoven web. However, the use of spunbonded nonwoven webs as topsheets is well known in the art. Horney confirms this and teaches a topsheet which is a spunbonded nonwoven web (col. 16, lines 45-65). It would have been obvious to one of ordinary skill in the art to modify Wang to include the topsheet being a spunbonded nonwoven web, as taught by Horney.

15. For Claim 12, Wang teaches the backsheet 11 including a spunbonded nonwoven web (Abstract, col. 8, lines 40-53, col. 9, lines 3-28).

16. For Claim 13, Wang teaches the backsheet including polypropylene fibers (col. 9, lines 12-66).

17. For Claim 14, Wang does not expressly teach the absorbent core including superabsorbent material. However, the use of superabsorbent material in an absorbent core is well known in the art. Horney confirms this and teaches superabsorbent material in the absorbent core (col. 3, lines 20-26, col. 4, lines 15-25, col. 10, lines 31-51, col. 12, lines 54-64, col. 13, lines 25-57). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wang to include superabsorbent material in the absorbent core, as taught by Horney.

18. For Claim 16, Wang does not expressly teach the core including a carded airlaid web. However, carding and airlaying are well known in the art. Horney confirms this and teaches the core formed by air-laying or carding (col. 9, lines 22-25, col. 10, lines

26-30). It would have been obvious to one of ordinary skill in the art to modify Wang to include the core having a carded airlaid web, as taught by Horney.

19. For Claim 17, the sanitary napkin of Wang is fully capable of being used as a pantiliner (Figs. 1-2, col. 1, lines 30-43, col. 7, lines 66-68).

20. The rejections of Claims 5, 9, and 11 under 35 U.S.C. 103(a) as being unpatentable over Wang et al in view of Horney and further in view of Kudo (US 2003/0187417) are maintained for the reasons of record, as well as the reasons described above in paragraphs 2-5.

21. For Claim 5, Wang/Horney teach all the limitations of Claim 1, as described above in paragraph 8. Wang teaches entangling of fibers of different layers of the absorbent article (col. 18, lines 37-53). Wang does not expressly teach the topsheet and the core being joined by mechanical entangling of a portion of their respective fibers. However, joining a topsheet to a core by mechanically entangling of a portion of their respective fibers is well known in the art of absorbent articles. Kudo confirms this and teaches a sanitary napkin in which a topsheet is joined to a core by mechanically entangling a portion of their respective fibers (topsheet is top layer 5, core is absorbent layer 4, Figs. 1-7, Abstract, Paragraphs 11-17, 44, 46, and 98, and Claim 1). Kudo teaches that this bonding increases wet strength of the absorbent core and results in body fluid being more easily absorbed by the absorbent layer (paragraph 17). It would have been obvious to one of ordinary skill in the art to modify Wang to include joining the topsheet to the core by mechanically entangling a portion of their respective fibers,

as taught by Kudo, to increase wet strength of the absorbent core and make body fluid more easily absorbed, as taught by Kudo.

22. For Claim 9, Wang teaches entangling of fibers of different layers of the absorbent article (col. 18, lines 37-53). Wang does not teach the topsheet and the absorbent core being embossed to expose and entangle fibers from the core with the topsheet. However, the topsheet and the absorbent core being embossed to expose and entangle fibers from the core with the topsheet is well known in the art of absorbent articles. Kudo confirms this and teaches the topsheet and the absorbent core being embossed to expose and entangle fibers from the core with the topsheet (Figs. 1-7, Abstract, Paragraphs 11-17). Kudo teaches that the embossing increases the wet strength of the absorbent layer and makes body fluid easily absorbed by the absorbent layer (Paragraph 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wang to include the topsheet and the absorbent core being embossed to expose and entangle fibers from the core with the topsheet, as taught by Kudo, to increase the wet strength of the absorbent layer and make body fluid easily absorbed by the absorbent layer, as taught by Kudo.

23. For Claim 11, Wang does not teach the topsheet including bicomponent fibers. However, bicomponent fibers are well known for use in topsheets for absorbent articles. Kudo confirms this and teaches a sanitary napkin having a bicomponent topsheet (top layer 5, paragraphs 63-64, 70, 84, 103, 112, 114-118). Kudo teaches that the topsheet using such fibers is resilient even under pressure from the body of a wearer (paragraph 70). It would have been obvious to one of ordinary skill in the art to modify Wang to

include the topsheet having bicomponent fibers, as taught by Kudo, to provide a topsheet which is resilient under pressure, as taught by Kudo.

24. The rejections of Claims 15 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Wang et al in view of Horney and further in view of Carstens (US 6,582,411) are maintained for the reasons of record, as well as the reasons described above in paragraphs 2-5.

25. For Claim 15, Wang/Horney teach all the limitations of Claim 14, as described above in paragraph 17. Wang does not teach superabsorbent fibers. However, superabsorbent fibers in the absorbent core are well known in the art of absorbent articles. Carstens confirms this and teaches superabsorbent material in the absorbent core including superabsorbent fibers (Figs. 1-2, col. 11, line 25 to col. 12, line 13). Carstens teaches that superabsorbent fibers are preferred because of their greater capacity compared to other superabsorbents (col. 11, line 66 to col. 12, line 13). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wang to include superabsorbent fibers in the absorbent core, as taught by Carstens, to provide greater capacity, as taught by Carstens.

26. For Claim 18, Wang teaches a sanitary napkin including a fluid permeable topsheet 13, a fluid permeable backsheet 11, and an absorbent core 12 disposed therebetween (Abstract, Figs. 1-2, col. 1, lines 30-43, col. 7, lines 65-68, col. 13, line 66 to col. 14, line 11). Wang teaches the absorbent core 12 defining a core outer periphery (Figs. 1-2, col. 13, line 66 to col. 14, line 11). Wang teaches that a standard sanitary

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napkin includes fluff (col. 14, lines 34-60; note that standard fluff for sanitary napkins is made from wood pulp or the like, and is hydrophilic). The backsheet 11 includes relatively hydrophobic spunbonded nonwoven material (Abstract, Figs. 1-2, col. 9, lines 3-66; note that polyolefins are hydrophobic). Wang teaches the topsheet 13 and the backsheet 11 defining a sanitary napkin outer periphery that is substantially larger than the core outer periphery; the sanitary napkin outer periphery completely surrounds the core outer periphery and is fully capable of being a breathable zone such that vapors can permeate completely through the sanitary napkin in the breathable zone (Abstract, Figs. 1-2, col. 1, lines 30-44, col. 8, lines 4-66, col. 9, lines 3-28, col. 16, lines 28-68).

The sanitary napkin includes a fluid impermeable barrier between the backsheet 11 and the absorbent core 12, the fluid impermeable barrier being disposed adjacent to the absorbent core, within the core outer periphery and not extending beyond the core outer periphery (fluid impermeable barrier is the additional layer of the central zone 14, Abstract, Fig. 1, col. 8, lines 4-64, col. 13, line 66 to col. 14, line 11). Wang does not expressly teach the absorbent core including relatively hydrophilic airlaid nonwoven material having fibrous AGM; nor the topsheet including relatively hydrophobic spunbonded nonwoven material. However, relatively hydrophilic absorbent cores and relatively hydrophobic topsheets are well known in the art. Having fibrous AGM in the absorbent core is also well known. Horney confirms that a relatively hydrophilic absorbent core and a relatively hydrophobic spunbonded nonwoven topsheet is well known, and teaches a sanitary napkin having a relatively hydrophilic absorbent core and a relatively hydrophobic spunbonded nonwoven topsheet 22 (absorbent core includes

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absorbent core 25, distribution member 24, and acquisition layer 27; Figs. 1-2, col. 3, lines 12-20, col. 4, lines 26-55, col. 10, lines 31-52, col. 12, lines 54-64, col. 13, lines 25-67, col. 14, lines 45-67, col. 16, lines 1-65). Horney teaches that a generally hydrophobic topsheet helps to isolate the wearer's skin from liquids in the absorbent core (col. 14, lines 59-67, col. 16, lines 45-56). Carstens confirms that fibrous AGM is well known and teaches a sanitary napkin including fibrous AGM in the absorbent core (col. 11, line 46 to col. 12, line 20). Carstens teaches that fibrous AGM is preferred because of its greater capacity compared to other superabsorbents (col. 11, line 66 to col. 12, line 13). It would have been obvious to one of ordinary skill in the art to modify Wang to include the absorbent core having relatively hydrophilic material and the topsheet having relatively hydrophobic spunbonded nonwoven material, as taught by Horney, to isolate the wearer's skin from liquids in the absorbent core, as taught by Horney. It would also have been obvious to modify Wang to include fibrous AGM in the absorbent core, as taught by Carstens, to provide greater capacity, as taught by Carstens.

27. For Claim 20, Wang teaches a thin absorbent sanitary pad which is fully capable of being used as a pantiliner (Abstract, Figs. 1-2, col. 1, lines 30-43, col. 7, lines 65-68, col. 13, line 66 to col. 14, line 11). Wang teaches the pad including a fluid permeable topsheet 13, a fluid permeable backsheet 11, and an absorbent core 12 disposed therebetween (Abstract, Figs. 1-2, col. 1, lines 30-43, col. 7, lines 65-68, col. 13, line 66 to col. 14, line 11). Wang teaches the absorbent core 12 defining a core outer periphery (Figs. 1-2, col. 13, line 66 to col. 14, line 11). Wang teaches that a standard sanitary

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napkin includes fluff (col. 14, lines 34-60; note that standard fluff for sanitary napkins is made from wood pulp or the like, and is hydrophilic). The backsheet 11 includes relatively hydrophobic fluid repellent spunbonded nonwoven material (Abstract, Figs. 1-2, col. 9, lines 3-66; note that polyolefins are hydrophobic). Wang teaches the topsheet 13 and the backsheet 11 defining a pad outer periphery that is larger than the core outer periphery; the pad outer periphery completely surrounds the core outer periphery and is fully capable of being a breathable zone such that vapors can permeate completely through the sanitary pad in the breathable zone (Abstract, Figs. 1-2, col. 1, lines 30-44, col. 8, lines 4-66, col. 9, lines 3-28, col. 16, lines 28-68). The pad includes a fluid impermeable barrier between the backsheet 11 and the absorbent core 12, the fluid impermeable barrier being disposed adjacent to the absorbent core, within the core outer periphery and not extending beyond the core outer periphery (fluid impermeable barrier is the additional layer of the central zone 14, Abstract, Fig. 1, col. 8, lines 4-64, col. 13, line 66 to col. 14, line 11). Wang teaches that a wide variety of materials may be used for the fluid impermeable barrier (col. 8, line 4 to col. 10, line 65). Wang teaches a polyethylene film (col. 8, lines 40-66, col. 9, lines 47-59). Wang does not expressly teach the absorbent core including relatively hydrophilic airlaid nonwoven material having at least about 5 wt% AGM fiber content; the topsheet including relatively hydrophobic spunbonded nonwoven material; the absorbent core having a basis weight of between about 50 gsm and 100 gsm; nor the fluid impermeable barrier being a polyethylene film. However, relatively hydrophilic absorbent cores and relatively hydrophobic topsheets are well known in the art. Having fibrous AGM in the absorbent

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core is also well known. Applicant's specification does not disclose that a polyethylene film for the fluid impermeable barrier serves any stated purpose or solves any particular problem. Horney confirms that a relatively hydrophilic absorbent core and a relatively hydrophobic spunbonded topsheet is well known, and teaches a pantiliner having a relatively hydrophilic absorbent core and a relatively hydrophobic topsheet 22 (absorbent core includes absorbent core 25, distribution member 24, and acquisition layer 27; Abstract, Figs. 1-2, col. 3, lines 12-20, col. 4, lines 26-55, col. 10, lines 31-52, col. 11, lines 1-15, col. 12, lines 54-64, col. 13, lines 25-67, col. 14, lines 45-67, col. 16, lines 1-65). Horney teaches that a generally hydrophobic topsheet helps to isolate the wearer's skin from liquids in the absorbent core (col. 14, lines 59-67, col. 16, lines 45-56). Carstens confirms that fibrous AGM is well known and teaches a sanitary pad including at least about 5 wt% fibrous AGM in the absorbent core (col. 11, line 46 to col. 12, line 20, col. 12, line 53 to col. 13, line 26). Carstens teaches that fibrous AGM is preferred because of its greater capacity compared to other superabsorbents (col. 11, line 66 to col. 12, line 13). Carstens also teaches the absorbent core having a basis weight of between about 50 gsm and 100 gsm (col. 11, line 66 to col. 12, line 20, col. 13, lines 3-25). Basis weight is a result effective variable, since it affects capacity, thinness, resilience, and comfort. The discovery of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art. See *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980). It would have been obvious to one of ordinary skill in the art to modify Wang to include the absorbent core having relatively hydrophilic material and the topsheet having relatively hydrophobic spunbonded nonwoven

material, as taught by Horney, to isolate the wearer's skin from liquids in the absorbent core, as taught by Horney. It would also have been obvious to modify Wang to include at least about 5 wt% fibrous AGM in the absorbent core and to have the basis weight of the absorbent core between about 50 gsm and 100 gsm, as taught by Carstens, to provide suitable capacity, as taught by Carstens. In light of Wang's teaching of a polyethylene film and of the use of a wide variety of materials for the fluid impermeable barrier, it would have been obvious to modify Wang to include the fluid impermeable barrier being a polyethylene film.

28. For Claim 19, the sanitary napkin of Wang is fully capable of being used as a pantiliner (Figs. 1-2, col. 1, lines 30-43, col. 7, lines 66-68).

### ***Conclusion***

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAULA L. CRAIG whose telephone number is (571)272-5964. The examiner can normally be reached on M-F 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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